

Sales Tax Changes for Telecommunications Services

TV & Telecom tax notice

Effective May 2002, Public Chapter 719 provides for changes in: the taxation of mobile telecommunication services; the local sales tax rate for intrastate telecommunication services; the sales and use tax return filing procedures for providers of telecommunication services; and the method used to distribute the local tax to counties and cities.

Mobile Telecommunications

Interstate telecommunications are subject to tax if the services originate in, or are received in, this state and are billed or charged to a service address in Tennessee. In situations where the service address was not a defined location, such as mobile telecommunication services, the statute previously provided that “service address” should mean the customer’s telephone number, authorization code, or location in Tennessee where bills were sent. Under the new law, references to mobile telephones and paging systems have been deleted from the definition of service address, and the following new subsection was added to Tenn. Code Ann. Section 67-6-102(24)(F)(iii):

“(b) Subject to the provisions of 4 U.S.C. §116(c), charges for mobile telecommunications services that are subject to taxation under (iii)(a) of this paragraph shall be deemed to have originated or been received in Tennessee and to be billed or charged to a services address in this state if the customer’s place of primary use is located in Tennessee, regardless of where such service actually originates or terminates, and no charges for mobile telecommunications services shall be subject to tax if the customer’s place

of primary use is not located in Tennessee.”

Accordingly, any charges for, or associated with, providing mobile telecommunication services are subject to sales tax in Tennessee, if the customer’s place of primary use is in Tennessee, regardless of where the telecommunication actually originates or is received. “Mobile telecommunications service” means commercial radio service, as defined in 47 CFR § 20.3, as in effect on June 1, 1999. For purposes of taxation of mobile telecommunications, the place of primary use means the street address representative of where the customer’s use of the mobile telecommunication primarily occurs. This street address must be the residential street address or primary business street address of the customer or end user of the mobile telecommunication services, and such address must be in the licensed service area of the mobile telecommunication provider that the customer contracted with to provide the services. Charges for mobile telecommunications services are not subject to Tennessee sales tax if the customer’s place of primary use is outside Tennessee.

Local Tax on Intrastate Telecommunications

Tenn. Code Ann. Section 67-6-702(g) is amended by designating the current language regarding the local tax rate of 1.5% for interstate telecommunications as subdivision (1) and adding a new subsection (2) as follows:

“(2) Notwithstanding any other provisions of this chapter, local tax with respect to intrastate telecommunications services, which are subject to state tax, shall be imposed at the rate of **2.5%**.

The local sales tax rate for intrastate telecommunications subject to Tennessee sales tax is 2.5% regardless of the local tax rate levied by the local jurisdiction.

Filing Procedures for Telecommunications

Tenn. Code Ann. Section 67-6-702(a)(4) is amended to delete telephone services. For the purpose of the local option sales tax, telecommunication services providers are no longer considered to be exercising a taxable privilege at every location of a telephone that is being charged for services.

This law changes the telecommunication service providers' requirements for filing sales and use tax returns. Telecommunication service providers will file one Tennessee telecommunications tax return per reporting period. The department has revised the telecommunications tax return currently filed by providers of TV programming and telecommunications services. A copy of the revised TV programming and telecommunications services tax return is attached. Schedule B, on the reverse side of the tax return, is for calculating and reporting local tax, and includes the new local rate for intrastate telecommunication services. Schedule B may no longer be left blank. Schedule B must be completed; failure to do so may result in an additional assessment of tax, penalty, and interest. **Taxpayers must utilize the revised tax return for the August 2002 reporting period that is due on or before September 20, 2002.** These changes affect only telecommunications service providers and do not affect those persons providing cable television services or direct to home satellite services.

Distribution of Local Tax for Telecommunications

Tenn. Code Ann. Section 67-6-710 is amended to include new distribution requirements for the local tax imposed by Tenn. Code Ann. Section 67-6-702(g). The local tax will be distributed to each county and municipality as follows: Fifty percent will be distributed based on collections as provided in Tenn. Code Ann. Section 67-6-710(e) and 50% will be distributed based on the proportion of population that incorporated municipalities and unincorporated areas bear to the respective aggregated population of the state.

Effective Date

The provisions of this Act, including the new tax rate, became effective upon passage, and will first apply to bills issued by telecommunications service providers to their customers that are dated **on or after August 2, 2002**, for charges not previously billed. The first revised returns and remittances utilizing the new tax rate and filing procedures will be due on or before September 20, 2002, for the August 2002 reporting period. Taxpayers filing their returns through the Electronic Data Interchange or under the Electronic Funds Transfer program must make the necessary preparations to ensure that the correct amount of tax is remitted with the August 2002 return which is due on or before September 20, 2002.

Have questions or comments? Please let us know.
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